

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on freedom of religion or belief

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 25/2, 25/18 and 22/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the detention and surveillance of Ms. **Nyima Lhamo** and Ms. **Dolkar Lhamo**, women human rights defenders and relatives of late **Tenzin Delek**, and the criminalization of the legitimate exercise of rights of monks and local people in Lithang and Nyakchuka to freedom of expression, freedom of religion and freedom of peaceful assembly.

Mr. Tenzin Delek was a respected Tibetan Buddhist teacher and community leader from Lithang, Eastern Tibet. He was arrested and sentenced to death in 2002 on charges of "crimes of terror and incitement of separatism". His sentence was later commuted to life imprisonment. In July 2015, Mr. Tenzin died in prison under unexplained circumstances after having served 13 years of his sentence. Despite appeals by his family and legal processes under Chinese law, no death certificate has been issued. During their review of China in November 2015, the UN Committee Against Torture (CAT) requested Chinese authorities to account for Tenzin Delek's death in custody.

Ms. Nyima Lhamo is a woman human rights defender and the niece of Mr. Tenzin Delek. She has been advocating the innocence of Mr. Delek and called for an investigation into his death. She left Tibet in July 2016.

Ms. Dolkar Lhamo is a woman human rights defender and the sister of Mr. Tenzin Delek and mother of Ms. Nyima Lhamo. She is currently residing in Lithang, Eastern Tibet.

According to the information received:

The case of Ms. Nyima Lhamo and Ms. Dolkar Lhamo

On 17 July 2015, Ms. Nyima Lhamo and Ms. Dolkar Lhamo were detained after having shared pictures and information about Mr. Tezin Delek's death to journalists and other sources inside and outside Tibet through mobile communication apps and via telephone. They remained in detention for 13 days.

No reason was given for their detention, but they were told by the Chief of police of Lithang that they were being held for violating the Chinese Constitution by having shared information about Mr. Tenzin Delek's death. The Chief of police also threatened them with life imprisonment for their actions.

On 30 July 2015, Ms. Nyima Lhamo and Ms. Dolkar Lhamo were released. Before their release, they were ordered by the Chief of police of Lithang to sign a three-point document stating that they must not share any information about Mr. Tenzin Delek with anyone; they must not make allegations that the Chinese government had poisoned Mr. Tenzin Delek; and they were barred from joining any gatherings or meetings to speak about or discuss Mr. Tenzin Delek's death. Ms. Dolkar Lhamo refused to sign the letter as she was not shown its contents, but was only asked to sign a document. After their release, officials told them that their village leader had signed the document on their behalf and that they now had to listen to the instructions given by their village leader.

Upon their release from detention, Ms. Nyima Lhamo and Ms. Dolkar Lhamo noticed that their street's surveillance camera which usually was pointing at a building opposite had been moved to point directly at their house. Approximately 100 metres away from their house, 4-5 plain-clothed police also took permanent presence.

Due to the surveillance and threats, Ms. Nyima Lhamo left Tibet in July 2016.

On 9 October 2016, Ms. Nyima Lhamo received information that since her escape from Tibet and her public advocacy efforts since then, there had been an even further increase in police presence, interrogation and monitoring of her family and family house. Police officers had reportedly come to the family home on many occasions. On four of these, Ms. Dolkar Lhamo was summoned to the police station for interrogation during which police officers threatened her and other family members with arrest if Ms. Nyima Lhamo continued her public advocacy work regarding the case of Mr. Tenzin Delek. She was warned that the family would face serious consequences, if they should say anything negative related to the area of Lithang and Kardze Prefecture. During the two last interrogations, the head of the Lithang police and two high officials from Kardze Prefecture were present and threatened the family with the arrest of Ms. Nyima Lhamo's younger brother if they communicated information about Mr. Tenzin Delek's case to anyone outside Tibet.

Ms. Dolkar Lhamo and her family cannot travel outside Lithang without securing permission from the Lithang Police station.

Limitations to the rights to freedom of expressions and to peaceful assembly in Lithang

On 13 July 2015, around 1000 monks and local people gathered near Tenzin Delek's monastery in Nyakchuka to urge the local authorities to negotiate with the provincial prison over returning the body of Mr. Tenzin Delek to his family and monastic community. Police responded with the use of tear gas and use of force, wounding several persons, despite the peaceful nature of the protest.

On 17 July 2015, more than 300 Tibetans came to the prison where Mr. Tenzin had been held were ordered to return home. On the same day, the police broke up a religious prayer ceremony at Mr. Tenzin Delek's monastery. On the following day, local authorities in Lithang County town enforced the closure of one of the prayer halls where local people were lighting butter-lamps in the memory of Mr. Tenzin Delek.

In addition, the Internet was shut down in the areas of Lithang and Nyakchuka. The government also issued a communiqué on "7 forbidden activities" related to Mr. Tenzin Delek's case. This included a ban on marking Mr. Tenzin Delek's death in any way, including with funeral rites or holding a memorial ceremony, or "any Buddhist activities", and from raising concerns about his death, including by sharing information, gathering people together to talk about his death, raising petitions and requesting meetings with authorities. Such activities were deemed to be "illegal gatherings".

We express our concerns at the arrest and detention of Ms. Nyima Lhamo and Ms. Dolkar Lhamo, which appear to be directly related to their advocacy and imparting of information concerning the death of Mr. Tenzin Delek. We express equal concern at the threats, intimidation and surveillance of the two women human rights defenders as well as the use of force against peaceful protestors in Lithang. We express further concern at the broader measures taken in Lithang and Nyakchuka, including internet shut downs and the issuance of the communiqué on banned activities, limiting the right to freedom of information, expression as well as the rights to freedom of religion and peaceful assembly in ways that are incompatible with international human rights law.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information about the legal basis for the arrest and detention of Ms. Nyima Lhamo and Ms. Dolkar Lhamo and explain how this is compatible with international human rights law, in particular with respect to the right to freedom of expression.
3. Please provide information about the legal basis for the surveillance of the aforementioned persons' home.
4. Please provide information about the legal basis for the travel ban against Ms. Dolkar Lhamo and her family, and explain how this is compatible with international human rights law, in particular with the right to free movement.
5. Please provide information about the legal basis for the use of force by the police against peaceful protestors, and explain how this is compatible with international human rights law, in particular with respect to the right to freedom of peaceful assembly.
6. Please provide information about the legal basis for breaking up religious ceremonies, for the closure of the prayer hall as well as for the communiqué on banned activities, and explain how these actions are compatible with international human rights law, in particular with the rights to freedom of expression, freedom of religion and peaceful assembly.
7. Please provide information about the legal basis for and duration of the Internet shut down, and explain how this action is compatible with the right to freedom of expression.
8. Please provide detailed information concerning measures to ensure that human rights defenders, including women human rights defenders, can exercise their rights to freedom of association, peaceful assembly and expression in the Republic of China and are able to carry out their legitimate work in a safe and enabling environment without fear of violence, threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to recall the rights guaranteed by article 18 of the Universal Declaration of Human Rights (UDHR) that stipulates: “[e]veryone has the right to freedom of thought, conscience and religion; this right includes freedom [...] either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

Furthermore, The General Assembly 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief stipulates that the right to freedom of thought, conscience, religion or belief includes the freedom, in article 6 (a), “To worship or assemble in connection with a religion or belief [...]”.

We moreover like to bring the attention of your Excellency’s Government to the right to freedom of opinion and expression, guaranteed under article 19 of the UDHR, as well as article 19 of the International Covenant on Civil and Political Rights (ICCPR), signed by China on 5 October 1998. We make reference to Human Rights Council Resolution 12/16, which refers to the right to freedom of thought, conscience or religion as an intrinsically linked right to freedom of opinion and expression, and in this context, calls on States to take all necessary measures to put an end to violations of these rights and to create conditions to prevent their reoccurrence.

In addition, we would like to draw the attention of your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to highlight articles 1, 2, 5, 6 and 12.